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CITY OF OAKLAND, HOWARD JORDAN

and SEAN WHENT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DERWIN LONGMIRE,

Plaintiff,

vs.

CITY OF OAKLAND, HOWARD

JORDAN, SEAN WHENT, and DOES 1-

50, inclusive,

Defendant.

) Case No. C 10-01465 JSW

)

) (42 U.S.C. §§ 1981 and 1983)

)

) **DECLARATION OF WENDELL "PETE"**

)

) **FRANCE IN SUPPORT OF**

)

) **DEFENDANTS' MOTION FOR**

)

) **SUMMARY JUDGMENT OR, IN THE**

)

) **JUDGMENT**

)

) **Date: December 9, 2011**

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) **Time: 9:00 a.m.**

)

) **Dept: Courtroom 11, 19th Floor**

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) **Judge: Hon. Jeffrey S. White**

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) **Date Action Filed: April 7, 2010**

)

) **Trial Date: February 27, 2012**

1 I, Wendell M. France, declare as follows:

2 1. I am a former police commander who worked for the Baltimore Police Department
3 for 27 years. I am African-American. Prior to retiring from the force, I worked as a homicide
4 commander for seven years. I also worked 10 years as a consultant for the United States Department
5 of Justice. In addition, I have worked as a consultant for several law enforcement agencies
6 throughout the United States including but not limited to Los Angeles, Bakersfield and Washington
7 D.C. I have personal knowledge of the following facts and am competent to testify about them.

8 2. While working at the DOJ, I developed relationships with several of the individuals
9 who were later assigned to work in the City of Oakland as independent monitors. The monitors were
10 put in place to observe the efforts of the department to implement the Negotiated Settlement
11 Agreement reached by the parties in the matter of *Delphine Allen v. City of Oakland*, et al. Those
12 familiar with the agreement commonly refer to it as the NSA. In or around 2003, I was hired to
13 work as a consultant for the OPD in an effort to bring the internal affairs division into compliance
14 with various terms of the NSA.

15 3. In late 2008 or early 2009, I was separately contacted by the City of Oakland to
16 complete an administrative investigation of potential police officer misconduct for the Oakland
17 Police Department ("OPD") involving Sgt. Derwin Longmire and others. Prior to accepting this
18 assignment, I had not performed any similar function for the department. Moreover, I had no
19 personal knowledge or relationship with Sgt. Longmire. It was my understanding that I was to
20 provide OPD with an objective third party assessment of the facts.

21 4. My first step was to become familiar with the investigation conducted by OPD's
22 Internal Affairs Division. As part of developing the case, I traveled to California and met with
23 Sergeant Robert Chan who had been conducting the investigation for the department. I did not meet
24 or discuss my investigation with Assistant Chief Howard Jordan or Lieutenant Sean Whent. Other
25 than coordinating witness interviews, OPD was very hands off during my investigation. I made a list
26 of those persons I wanted to interview based upon my document and evidence review. After
27 reading the information gathered from OPD, I did cursory follow up interviews with Officer Jesse
28

1 Grant, former Deputy Chief Jeff Loman, Sgt. Lou Cruz, and Sgt. Dana Flynn.

2 5. At or around the same time, I met with individuals from the DOJ who had been asked to
3 conduct a separate probe into the allegations of misconduct. We discussed our respective roles and,
4 based on logistics, agreed that I would review the interviews prepared by Chan and the DOJ before
5 making my separate and independent assessment of the evidence.

6 6. I was never given any instruction by anyone at OPD on the outcome of the
7 investigation.¹ The findings were my own. Although I reviewed witness interviews taken by the
8 DOJ, I did not read their report or their findings following their investigation. I applied a
9 preponderance of the evidence standard. Based on that standard, I sustained four allegations:
10 Retaliation, Compromising Criminal Case, Insubordination and Performance of Duty.² 7. I found
11 that the investigation into the killing of Chauncey Bailey was poorly handled by Longmire. I also
12 found that significant evidence that suggested that others (Yusef Bey IV and Antoine Mackey) were
13 involved in the planning and /or execution of the Bailey homicide had been overlooked or
14 intentionally ignored by Longmire. I was also of the opinion that the interview and interrogation
15 methods utilized in the case were highly suspect and detrimental to receiving a confession without
16 coercion.

17 8. I did not conclude that Longmire was a "Black Muslim" or a member of "Your Black
18 Muslim Bakery" during my investigation. For the reasons outlined above, I concluded that
19 Longmire poorly handled the homicide investigation and it was my feeling that he did so in part
20 because of a personal relationship with Yusef Bey IV.

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24 ¹ My report is prepared in the format of the OPD internal affairs department because I was hired to
complete OPD's internal affairs investigation. In addition, I believe that I developed the format of the report
based on my earlier work as a consultant for the department.

25 ² I did not offer findings on the allegations particular to Officer Grant's case, because it was
26 my belief that concerns earlier raised to Captain Loman had been waived based on the applicable
27 statute of limitations.

1 I declare under penalty of perjury under the laws of the State of California and the United
2 States of America that the foregoing is true and correct.

3 Executed this 10th of August 2011, at Baltimore, Maryland

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